

103D CONGRESS  
1ST SESSION

**S. 843**

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**AN ACT**

To amend title 38, United States Code, to improve  
reemployment rights and benefits of veterans and  
other benefits of employment of certain members  
of the uniformed services.

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## AN ACT

To amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Uniformed Services  
5       Employment and Reemployment Rights Act of 1993”.

1 **SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.**

2 (a) RESTATEMENT AND IMPROVEMENT OF EMPLOY-  
 3 MENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title  
 4 38, United States Code, is amended to read as follows:

5 **“CHAPTER 43—EMPLOYMENT AND REEM-**  
 6 **PLOYMENT RIGHTS OF MEMBERS OF**  
 7 **THE UNIFORMED SERVICES**

“SUBCHAPTER I—GENERAL

“Sec.

“4301. Purposes; sense of Congress.

“4302. Relation to other law; construction.

“4303. Definitions.

“4304. Character of service.

“SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS  
 AND LIMITATIONS; PROHIBITIONS

“4311. Discrimination against persons who serve in the uniformed services and  
 acts of reprisal prohibited.

“4312. Reemployment rights of persons who serve in the uniformed services.

“4313. Reemployment positions.

“4314. Reemployment by the Federal Government.

“4315. Reemployment by certain Federal agencies.

“4316. Rights, benefits, and obligations of persons absent from employment for  
 service in a uniformed service.

“4317. Employee pension benefit plans.

“SUBCHAPTER III—PROCEDURES FOR ASSISTANCE,  
 ENFORCEMENT, AND INVESTIGATION

“4321. Assistance in obtaining reemployment or other employment rights or  
 benefits.

“4322. Enforcement of rights with respect to a State or private employer.

“4323. Enforcement of rights with respect to the Federal executive agencies.

“4324. Enforcement of rights with respect to certain Federal agencies.

“4325. Conduct of investigation; subpoenas.

“SUBCHAPTER IV—MISCELLANEOUS

“4331. Regulations.

“4332. Outreach.

8 “SUBCHAPTER I—GENERAL

9 **“§ 4301. Purposes; sense of Congress**

10 “(a) The purposes of this chapter are—

1           “(1) to encourage noncareer service in the uni-  
2           formed services by eliminating or minimizing the dis-  
3           advantages to civilian careers and employment which  
4           can result from such service;

5           “(2) to minimize the disruption to the lives of  
6           persons performing service in the uniformed services  
7           as well as to their employers, their fellow employees,  
8           and their communities, by providing for the prompt  
9           reemployment of such persons upon their completion  
10          of such service under honorable conditions; and

11          “(3) to prohibit discrimination against persons  
12          because of their service in the uniformed services.

13          “(b) It is the sense of Congress that the Federal Gov-  
14          ernment should be a model employer in carrying out the  
15          provisions of this chapter.

16       **“§ 4302. Relation to other law; construction**

17          “(a) Nothing in this chapter shall supersede, nullify  
18          or diminish any Federal or State law (including any local  
19          law or ordinance) or employer practice, policy, agreement,  
20          or plan that establishes a right or benefit that is more  
21          beneficial to, or is in addition to, a right or benefit pro-  
22          vided for such person in this chapter.

23          “(b) This chapter supersedes any State law (includ-  
24          ing any local law or ordinance) or employer practice, pol-  
25          icy, agreement, or plan that reduces, limits, or eliminates

1 in any manner any right or benefit provided by this chap-  
2 ter, including the establishment of additional prerequisites  
3 to the exercise of any such right or the receipt of any such  
4 benefit.

5 **“§ 4303. Definitions**

6 “For the purposes of this chapter—

7 “(1) The term ‘Attorney General’ means the  
8 Attorney General of the United States or any person  
9 designated by the Attorney General to carry out a  
10 responsibility of the Attorney General under this  
11 chapter.

12 “(2) The term ‘benefit’, ‘benefit of employ-  
13 ment’, or ‘rights and benefits’ means any advantage,  
14 profit, privilege, gain, status, account, or interest  
15 (other than wages or salary for work performed)  
16 that accrues by reason of an employment contract or  
17 an employer practice or custom and includes rights  
18 and benefits under a pension plan, a health plan, an  
19 employee stock ownership plan, insurance coverage  
20 and awards, bonuses, severance pay, supplemental  
21 unemployment benefits, vacations, and the oppor-  
22 tunity to select work hours or location of employ-  
23 ment.

24 “(3)(A) The term ‘employee’ means any person  
25 employed by an employer.

1           “(B) With respect to employment in a foreign  
2           country, the term ‘employee’ includes an individual  
3           who is a citizen of the United States.

4           “(4)(A) Except as provided in subparagraphs  
5           (B) and (C), the term ‘employer’ means any person,  
6           institution, organization, or other entity that pays  
7           salary or wages for work performed or that has con-  
8           trol over employment opportunities, including—

9               “(i) a person, institution, organization, or  
10              other entity to whom the employer has dele-  
11              gated the performance of employment-related  
12              responsibilities;

13               “(ii) the Federal Government;

14               “(iii) a State;

15               “(iv) any successor in interest to a person,  
16              institution, organization, or other entity re-  
17              ferred to in this subparagraph; and

18               “(v) a person, institution, organization, or  
19              other entity that has denied initial employment  
20              in violation of section 4311 of this title.

21           “(B) In the case of a National Guard techni-  
22           cian employed under section 709 of title 32, the  
23           term ‘employer’ means the adjutant general of the  
24           State in which the technician is employed.

1           “(C) Except as an actual employer of employ-  
2       ees, an employee pension benefit plan described in  
3       section 3(2) of the Employee Retirement Income Se-  
4       curity Act of 1974 (29 U.S.C. 1002(2)) shall be  
5       deemed to be an employer only with respect to the  
6       obligation to provide benefits described in section  
7       4317 of this title.

8           “(5) The term ‘Federal executive agency’ in-  
9       cludes the United States Postal Service, the Postal  
10      Rate Commission, any nonappropriated fund instru-  
11      mentality of the United States, and any Executive  
12      agency (as that term is defined in section 105 of  
13      title 5) other than an agency referred to in section  
14      2302(a)(2)(C)(ii) of title 5.

15          “(6) The term ‘Federal Government’ includes  
16      any Federal executive agency, the legislative branch  
17      of the United States, and the judicial branch of the  
18      United States.

19          “(7) The term ‘health plan’ means an insurance  
20      policy or contract, medical or hospital service agree-  
21      ment, membership or subscription contract, or other  
22      arrangement under which health services for individ-  
23      uals are provided or the expenses of such services  
24      are paid.

1           “(8) The term ‘notice’ means (with respect to  
2           subchapter II) any written or verbal notification of  
3           an obligation or intention to perform service in the  
4           uniformed services provided to an employer by the  
5           employee who will perform such service or by the  
6           uniformed service in which such service is to be per-  
7           formed.

8           “(9) The term ‘qualified’, with respect to an  
9           employment position, means having the ability to  
10          perform the essential tasks of the position.

11          “(10) The term ‘reasonable efforts’, in the case  
12          of actions required of an employer under this chap-  
13          ter, means actions, including training provided by an  
14          employer, that do not place an undue hardship on  
15          the employer.

16          “(11) The term ‘Secretary’ means the Secretary  
17          of Labor or any person designed by such Secretary  
18          to carry out an activity under this chapter.

19          “(12) The term ‘seniority’ means longevity in  
20          employment together with any benefits of employ-  
21          ment which accrue with, or are determined by, lon-  
22          gevity in employment.

23          “(13) The term ‘service in the uniformed serv-  
24          ices’ means the performance of duty on a voluntary  
25          or involuntary basis in a uniformed service under



1 competent authority and includes active duty, active  
2 duty for training, initial active duty for training, in-  
3 active duty training, full-time National Guard duty,  
4 and a period for which a person is absent from a po-  
5 sition of employment for the purpose of an examina-  
6 tion to determine the fitness of the person to per-  
7 form any such duty.

8 “(14) The term ‘State’ means each of the sev-  
9 eral States of the United States, the District of Co-  
10 lumbia, the Commonwealth of Puerto Rico, Guam,  
11 the Virgin Islands, and other territories of the Unit-  
12 ed States (including the agencies and political sub-  
13 divisions thereof).

14 “(15) The term ‘undue hardship’, in the case of  
15 actions taken by an employer, means actions requir-  
16 ing significant difficulty or expense, when considered  
17 in light of—

18 “(A) the nature and cost of the action  
19 needed under this chapter;

20 “(B) the overall financial resources of the  
21 facility or facilities involved in the provision of  
22 the action; the number of persons employed at  
23 such facility; the effect on expenses and re-  
24 sources, or the impact otherwise of such action  
25 upon the operation of the facility;

1           “(C) the overall financial resources of the  
2           employer; the overall size of the business of an  
3           employer with respect to the number of its em-  
4           ployees; the number, type, and location of its  
5           facilities; and

6           “(D) the type of operation or operations of  
7           the employer, including the composition, struc-  
8           ture, and functions of the work force of such  
9           employer; the geographic separateness, adminis-  
10          trative, or fiscal relationship of the facility or  
11          facilities in question to the employer.

12          “(16) The term ‘uniformed services’ means the  
13          Armed Forces, the Army National Guard and the  
14          Air National Guard when engaged in active duty for  
15          training, inactive duty training, or full-time National  
16          Guard duty, the commissioned corps of the Public  
17          Health Service, and any other category of persons  
18          designated by the President in time of war or emer-  
19          gency.

20       **“§ 4304. Character of service**

21          “A person’s entitlement to the benefits of this chapter  
22          by reason of the service of such person in one of the uni-  
23          formed services terminates upon the occurrence of any of  
24          the following events:

1           “(1) A separation of such person from such  
2           uniformed service with a dishonorable or bad con-  
3           duct discharge.

4           “(2) A separation of such person from such  
5           uniformed service under other than honorable condi-  
6           tions, as characterized pursuant to regulations pre-  
7           scribed by the Secretary concerned.

8           “(3) A dismissal of such person permitted  
9           under section 1161(a) of title 10.

10          “(4) A dropping of such person from the rolls  
11          pursuant to section 1161(b) of title 10.

12   “SUBCHAPTER II—EMPLOYMENT AND REEM-  
13    PLOYMENT RIGHTS AND LIMITATIONS;  
14    PROHIBITIONS

15   **“§ 4311. Discrimination against persons who serve in**  
16                 **the uniformed services and acts of re-**  
17                 **prisal prohibited**

18          “(a) A person who is a member of, applies to be a  
19   member of, performs, has performed, applies to perform,  
20   or has an obligation to perform service in a uniformed  
21   service shall not be denied initial employment, reemploy-  
22   ment, retention in employment, promotion, or any benefit  
23   of employment by an employer on the basis of that mem-  
24   bership, application for membership, performance, service,  
25   application for service, or obligation.

1       “(b) An employer shall be considered to have denied  
2 a person initial employment, reemployment, retention in  
3 employment, promotion, or a benefit of employment in vio-  
4 lation of this section if the person’s membership, applica-  
5 tion for membership, service, application for service, or ob-  
6 ligation for service in the uniformed services is a motivat-  
7 ing factor in the employer’s action, unless the employer  
8 can demonstrate that the action would have been taken  
9 in the absence of such membership, application for mem-  
10 bership, performance, service, application for service, or  
11 obligation.

12       “(c)(1) An employer may not discriminate in employ-  
13 ment against or take any adverse employment action  
14 against any person because such person has taken an ac-  
15 tion to enforce a protection afforded any person under this  
16 chapter, has testified or otherwise made a statement in  
17 or in connection with any proceeding under this chapter,  
18 has assisted or otherwise participated in an investigation  
19 under this chapter, or has exercised a right provided for  
20 in this chapter.

21       “(2) The prohibition in paragraph (1) shall apply  
22 with respect to a person regardless of whether that person  
23 has performed service in the uniformed services.

24       “(d)(1) An employer may take an action otherwise  
25 prohibited by this section with respect to an employee in

1 a workplace in a foreign country if compliance with such  
 2 section would cause such employer to violate the law of  
 3 the foreign country in which the workplace is located.

4 “(2) If an employer controls a corporation incor-  
 5 porated and located in a foreign country, any practice pro-  
 6 hibited by this chapter that is engaged in by such corpora-  
 7 tion shall be presumed to be engaged in by such employer.

8 “(3)(A) The prohibitions of this section shall not  
 9 apply to a foreign employer not controlled by an American  
 10 employer.

11 “(B) For purposes of this paragraph the determina-  
 12 tion of whether an employer controls a corporation shall  
 13 be based on—

14 “(i) the interrelation of operations;

15 “(ii) the common management;

16 “(iii) the centralized control of labor relations;

17 and

18 “(iv) the common ownership or financial control  
 19 of the employer and the corporation.

20 **“§ 4312. Reemployment rights of persons who serve**  
 21 **in the uniformed services**

22 “(a) Subject to subsections (b), (c), and (d), any per-  
 23 son who is absent from a position of employment by rea-  
 24 son of service in the uniformed services shall be entitled

1 to the reemployment rights and benefits and other employ-  
2 ment benefits of this chapter if—

3 “(1) the person (or an appropriate officer of the  
4 uniformed service in which such service is per-  
5 formed) has given advance written or verbal notice  
6 of such service to such person’s employer;

7 “(2) the cumulative length of the absence and  
8 of all previous absences from a position of employ-  
9 ment with that employer by reason of service in the  
10 uniformed services does not exceed five years; and

11 “(3) the person reports to, or submits an appli-  
12 cation for reemployment to, such employer in ac-  
13 cordance with subsection (e).

14 “(b) No notice is required under subsection (a)(1) if  
15 the giving of such notice is precluded by military necessity  
16 or the giving of such notice is otherwise impossible or un-  
17 reasonable. A determination of military necessity for the  
18 purposes of this subsection shall be made pursuant to reg-  
19 ulations prescribed by the Secretary of Defense and shall  
20 not be subject to judicial review.

21 “(c) Subsection (a) shall apply to a person who is  
22 absent from a position of employment by reason of service  
23 in the uniformed services if such person’s cumulative pe-  
24 riod of service in the uniformed services, with respect to  
25 the employer relationship for which a person seeks reem-

1 ployment, does not exceed five years, except that any such  
2 period of service shall not include any service—

3 “(1) that is required, beyond five years, to com-  
4 plete an initial period of obligated service;

5 “(2) during which such person was unable to  
6 obtain orders releasing such person from a period of  
7 service in the uniformed services before the expira-  
8 tion of such five-year period and such inability was  
9 through no fault of such person;

10 “(3) performed as required pursuant to section  
11 270 of title 10, under section 502(a) or 503 of title  
12 32, or to fulfill additional training requirements de-  
13 termined and certified in writing by the Secretary  
14 concerned, to be necessary for professional develop-  
15 ment, or for completion of skill training or retrain-  
16 ing; or

17 “(4) performed by a member of a uniformed  
18 service who is—

19 “(A) ordered to or retained on active duty  
20 under section 672(a), 672(g), 673, 673b, 673c,  
21 or 688 of title 10 or under section 331, 332,  
22 359, 360, 367, or 712 of title 14;

23 “(B) ordered to or retained on active duty  
24 (other than for training) under any provision of  
25 law during a war or during a national emer-

1           agency declared by the President or the Con-  
2           gress;

3           “(C) ordered to active duty (other than for  
4           training) in support, as determined by the Sec-  
5           retary concerned, of an operational mission for  
6           which personnel have been ordered to active  
7           duty under section 673b of title 10;

8           “(D) ordered to active duty in support, as  
9           determined by the Secretary concerned, of a  
10          critical mission or requirement of the uniformed  
11          services; or

12          “(E) called into Federal service as a mem-  
13          ber of the National Guard under chapter 15 of  
14          title 10 or under section 3500 or 8500 of title  
15          10.

16          “(d)(1) An employer is not required to reemploy a  
17          person under this chapter if—

18               “(A) the employer’s circumstances have so  
19               changed as to make such reemployment impossible  
20               or unreasonable; or

21               “(B) in the case of a person entitled to reem-  
22               ployment under subsection (a)(3), (a)(4), or  
23               (b)(2)(B) of section 4313 of this title, such employ-  
24               ment would impose an undue hardship on the em-  
25               ployer.



1       “(2) In any proceeding involving an issue of wheth-  
2 er—

3               “(A) any reemployment referred to in para-  
4 graph (1) is impossible or unreasonable because of  
5 a change in an employer’s circumstances, or

6               “(B) any accommodation, training, or effort re-  
7 ferred to in subsection (a)(3), (a)(4), or (b)(2)(B) of  
8 section 4313 of this title would impose an undue  
9 hardship on the employer,  
10 the employer shall have the burden of proving the impos-  
11 sibility or unreasonableness or undue hardship.

12       “(e)(1) Subject to paragraph (2), a person referred  
13 to in subsection (a) shall, upon the completion of a period  
14 of service in the uniformed services, notify the employer  
15 referred to in such subsection of the person’s intent to  
16 return to a position of employment with such employer  
17 as follows:

18               “(A) In the case of a person whose period of  
19 service in the uniformed services was less than 31  
20 days, by reporting to the employer—

21               “(i) not later than the beginning of the  
22 first full regularly scheduled work period on the  
23 first full calendar day following the completion  
24 of the period of service and the expiration of  
25 eight hours after a period allowing for the safe

1 transportation of the person from the place of  
2 that service to the person's residence; or

3 “(ii) as soon as possible after the expira-  
4 tion of the eight-hour period referred to in  
5 clause (i), if reporting within the period re-  
6 ferred to in such clause is impossible or unrea-  
7 sonable through no fault of the person.

8 “(B) In the case of a person who is absent from  
9 a position of employment for a period of any length  
10 for the purposes of an examination to determine the  
11 person's fitness to perform service in the uniformed  
12 services, by reporting in the manner and time re-  
13 ferred to in subparagraph (A).

14 “(C) In the case of a person whose period of  
15 service in the uniformed services was for more than  
16 30 days but less than 181 days, by submitting an  
17 application for reemployment with the employer not  
18 later than 14 days after the completion of the period  
19 of service.

20 “(D) In the case of a person whose period of  
21 service in the uniformed services was for more than  
22 180 days, by submitting an application for reemploy-  
23 ment with the employer not later than 90 days after  
24 the completion of the period of service.

1       “(2)(A) A person who is hospitalized for, or con-  
2 valescing from, an illness or injury incurred in, or aggra-  
3 vated by, the performance of service in the uniformed serv-  
4 ices shall, at the end of the period that is necessary for  
5 the person to recover from such illness or injury, report  
6 to the person’s employer (in the case of a person described  
7 in subparagraph (A) or (B) of paragraph (1)) or submit  
8 an application for reemployment with such employer (in  
9 the case of a person described in subparagraph (C) or (D)  
10 of such paragraph). Except as provided in subparagraph  
11 (B), such period of recovery may not exceed two years.

12       “(B) Such two-year period shall be extended by the  
13 minimum time required to accommodate the cir-  
14 cumstances beyond such person’s control which make re-  
15 porting within the period specified in subparagraph (A)  
16 impossible or unreasonable.

17       “(3) A person who fails to report for employment or  
18 reemployment within the appropriate period specified in  
19 this subsection shall not automatically forfeit such per-  
20 son’s entitlement to the rights and benefits referred to in  
21 subsection (a) but shall be subject to the conduct rules,  
22 established policy, and general practices of the employer  
23 pertaining to explanations and discipline with respect to  
24 absence from scheduled work.

1       “(f)(1) A person who submits an application for re-  
2 employment in accordance with subparagraph (C) or (D)  
3 of subsection (e)(1) or subsection (e)(2) shall provide to  
4 the person’s employer (upon the request of such employer)  
5 documentation to establish that—

6               “(A) the person’s application is timely;

7               “(B) the person has not exceeded the service  
8 limitations set forth in subsection (a)(2) (except as  
9 permitted under subsection (c)); and

10              “(C) the person’s entitlement to the benefits  
11 under this chapter has not been terminated pursuant  
12 to section 4304 of this title.

13       “(2) Documentation of any matter referred to in  
14 paragraph (1) that satisfies regulations prescribed by the  
15 Secretary shall satisfy the documentation requirements in  
16 such paragraph.

17       “(3)(A) Except as provided in subparagraph (B), the  
18 failure of a person to provide documentation that satisfies  
19 regulations prescribed pursuant to paragraph (2) shall not  
20 be a basis for denying reemployment in accordance with  
21 the provisions of this chapter if the failure occurs because  
22 such documentation does not exist or is not readily avail-  
23 able at the time of the request of the employer. If, after  
24 such reemployment, documentation becomes available that  
25 establishes that such person does not meet one or more

1 of the requirements referred to in subparagraphs (A), (B),  
2 and (C) of paragraph (1), the employer of such person  
3 may terminate the employment of the person and the pro-  
4 vision of any rights or benefits afforded the person under  
5 this chapter.

6 “(B) An employer who reemploys a person absent  
7 from a position of employment for more than 90 days may  
8 require that the person provide the employer with the doc-  
9 umentation referred to in subparagraph (A) before begin-  
10 ning to treat the person as not having incurred a break  
11 in service for pension purposes under section  
12 4317(a)(2)(A) of this title.

13 “(4) An employer may not delay or attempt to defeat  
14 a reemployment obligation by demanding documentation  
15 that does not then exist or is not then readily available.

16 “(g) The right of a person to reemployment under  
17 this section shall not entitle such person to retention, pref-  
18 erence, or displacement rights over any person with a su-  
19 perior claim under the provisions of title 5, United States  
20 Code, relating to veterans and other preference eligibles.

21 “(h) In any determination of a person’s entitlement  
22 to protection under this chapter, the timing, frequency,  
23 and duration of the person’s training or service, or the  
24 nature of such training or service (including voluntary  
25 service) in the uniformed services, shall not be a basis for

1 denying protection of this chapter if the service does not  
2 exceed the limitations set forth in subsection (c) and the  
3 notice requirements established in subsection (a)(1) and  
4 the notification requirements established in subsection (e)  
5 are met.

6 **“§ 4313. Reemployment positions**

7       “(a) Subject to subsection (b) (in the case of any em-  
8 ployee) and section 4314 of this title (in the case of an  
9 employee of the Federal Government), a person entitled  
10 to reemployment under section 4312 of this title upon  
11 completion of a period of service in the uniformed services  
12 shall be promptly reemployed in a position of employment  
13 in accordance with the following order of priority:

14               “(1) Except as provided in paragraphs (3) and  
15       (4), in the case of a person whose period of service  
16       in the uniformed services was for less than 31  
17       days—

18                       “(A) in the position of employment in  
19               which the person would have been employed if  
20               the continuous employment of such person with  
21               the employer had not been interrupted by such  
22               service, the duties of which the person is quali-  
23               fied to perform; or

24                       “(B) if the person is not qualified to per-  
25               form the duties of the position referred to in

1           subparagraph (A), after reasonable efforts by  
2           the employer to qualify the person, in the posi-  
3           tion of employment in which the person was  
4           employed on the date of the commencement of  
5           the service in the uniformed services.

6           “(2) Except as provided in paragraphs (3) and  
7           (4), in the case of a person whose period of service  
8           in the uniformed services was for more than 30  
9           days—

10                 “(A) in the position of employment in  
11                 which the person would have been employed if  
12                 the continuous employment of such person with  
13                 the employer had not been interrupted by such  
14                 service, or a position of like seniority, status,  
15                 and pay, the duties of which the person is quali-  
16                 fied to perform; or

17                 “(B) if the person is not qualified to per-  
18                 form the duties of a position referred to in sub-  
19                 paragraph (A), after reasonable efforts by the  
20                 employer to qualify the person, in the position  
21                 of employment in which the person was em-  
22                 ployed on the date of the commencement of the  
23                 service in the uniformed services, or a position  
24                 of like seniority, status and pay, the duties of  
25                 which the person is qualified to perform.

1           “(3) In the case of a person who has a disabili-  
2           ty incurred in, or aggravated by, such service, and  
3           who (after reasonable efforts by the employer to ac-  
4           commodate the disability) is not qualified due to  
5           such disability to be employed in the position of em-  
6           ployment in which the person would have been em-  
7           ployed if the continuous employment of such person  
8           with the employer had not been interrupted by such  
9           service—

10               “(A) in any other position which is equiva-  
11           lent in seniority, status, and pay, the duties of  
12           which the person is qualified to perform or  
13           would become qualified to perform with reason-  
14           able efforts by the employer; or

15               “(B) if not employed under subparagraph  
16           (A), in a position which is the nearest approxi-  
17           mation to a position referred to in subpara-  
18           graph (A) in terms of seniority, status, and pay  
19           consistent with circumstances of such person’s  
20           case.

21           “(4) In the case of a person who (A) is not  
22           qualified to be employed in (i) the position of em-  
23           ployment in which the person would have been em-  
24           ployed if the continuous employment of such person  
25           with the employer had not been interrupted by such



1 service, or (ii) in the position of employment in  
2 which such person was employed on the date of the  
3 commencement of the service in the uniform services  
4 for any reason (other than disability incurred in, or  
5 aggravated by, service in the uniformed services),  
6 and (B) cannot become qualified with reasonable ef-  
7 forts by the employer, in any other position of lesser  
8 status and pay which such person is qualified to per-  
9 form, with full seniority.

10 “(b)(1) If two or more persons are entitled to reem-  
11 ployment under section 4312 of this title in the same posi-  
12 tion of employment and more than one of them has re-  
13 ported for such reemployment, the person who left the po-  
14 sition first shall have the prior right to reemployment in  
15 that position.

16 “(2) Any person entitled to reemployment under sec-  
17 tion 4312 of this title who is not reemployed in a position  
18 of employment by reason of paragraph (1) shall be entitled  
19 to be reemployed as follows:

20 “(A) Except as provided in subparagraph (B),  
21 in any other position of employment referred to in  
22 subsection (a)(1) or (a)(2), as the case may be (in  
23 the order of priority set out in the applicable sub-  
24 section), that provides a similar status and pay to a  
25 position of employment referred to in paragraph (1)

1 of this subsection, consistent with circumstances of  
2 such person's case, with full seniority.

3 “(B) In the case of a person who has a disabili-  
4 ty incurred in, or aggravated by, service in the uni-  
5 formed services that requires reasonable efforts by  
6 the employer for the person to be able to perform  
7 the duties of the position of employment, in any po-  
8 sition referred to in subsection (a)(3) (in the order  
9 of priority set out in that subsection) that provides  
10 a similar status and pay to a position referred to in  
11 paragraph (1), consistent with circumstances of such  
12 person's case, with full seniority.

13 **“§ 4314. Reemployment by the Federal Government**

14 “(a) Except as provided in subsections (b), (c), and  
15 (d), if a person is entitled to reemployment by the Federal  
16 Government under section 4312 of this title, such person  
17 shall be reemployed in a position of employment as de-  
18 scribed in section 4313 of this title.

19 “(b)(1) If the Director of the Office of Personnel  
20 Management makes a determination described in para-  
21 graph (2) with respect to a person who was employed by  
22 a Federal executive agency at the time the person entered  
23 the service from which the person seeks reemployment  
24 under this section, the Director shall—

1           “(A) identify a position of like seniority, status,  
2           and pay at another Federal executive agency that  
3           satisfies the requirements of section 4313 of this  
4           title and for which the person is qualified; and

5           “(B) ensure that the person is offered such po-  
6           sition.

7           “(2) The Director shall carry out the duties referred  
8           to in subparagraphs (A) and (B) of paragraph (1) if the  
9           Director determines that—

10           “(A) the Federal executive agency that em-  
11           ployed the person referred to in such paragraph no  
12           longer exists and the functions of such agency have  
13           not been transferred to another Federal executive  
14           agency; or

15           “(B) it is impossible or unreasonable for the  
16           agency to reemploy the person.

17           “(c) If the employer of a person described in sub-  
18           section (a) was, at the time such person entered the serv-  
19           ice from which such person seeks reemployment under this  
20           section, a part of the judicial branch or the legislative  
21           branch of the Federal Government, and such employer de-  
22           termines that it is impossible or unreasonable for such em-  
23           ployer to reemploy such person, such person shall, upon  
24           application to the Director of the Office of Personnel Man-  
25           agement, be ensured an offer of employment in an alter-

1 native position in a Federal executive agency on the basis  
2 described in subsection (b).

3 “(d) If the adjutant general of a State determines  
4 that it is impossible or unreasonable to reemploy a person  
5 who was a National Guard technician employed under sec-  
6 tion 709 of title 32, such person shall, upon application  
7 to the Director of the Office of Personnel Management,  
8 be ensured an offer of employment in an alternative posi-  
9 tion in a Federal executive agency on the basis described  
10 in subsection (b).

11 **“§ 4315. Reemployment by certain Federal agencies**

12 “(a) The head of each agency referred to in section  
13 2302(a)(2)(C)(ii) of title 5 shall prescribe procedures for  
14 ensuring that the rights under this chapter apply to the  
15 employees of such agency.

16 “(b) In prescribing procedures under subsection (a),  
17 the head of an agency referred to in that subsection shall  
18 ensure, to the maximum extent practicable, that the proce-  
19 dures of the agency for reemploying persons who serve in  
20 the uniformed services provide for the reemployment of  
21 such persons in the agency in a manner similar to the  
22 manner of reemployment described in section 4313 of this  
23 title.

24 “(c)(1) The regulations prescribed under subsection  
25 (a) shall designate an official at the agency who shall de-

1 termine whether or not the reemployment of a person re-  
2 ferred to in subsection (b) by the agency is impossible or  
3 unreasonable.

4 “(2) Upon making a determination that the reem-  
5 ployment by the agency of a person referred to in sub-  
6 section (b) is impossible or unreasonable, the official re-  
7 ferred to in paragraph (1) shall notify the person and the  
8 Director of the Office of Personnel Management of such  
9 determination.

10 “(3) A determination pursuant to this subsection  
11 shall not be subject to judicial review.

12 “(4) The head of each agency referred to in sub-  
13 section (a) shall submit to the Select Committee on Intel-  
14 ligence of the Senate and the Permanent Select Committee  
15 on Intelligence of the House of Representatives on an an-  
16 nual basis a report on the number of persons whose reem-  
17 ployment with the agency was determined under this sub-  
18 section to be impossible or unreasonable during the year  
19 preceding the report, including the reason for each such  
20 determination.

21 “(d)(1) Except as provided in this section, nothing  
22 in this section, section 4313 of this title, or section 4324  
23 of this title shall be construed to exempt any agency re-  
24 ferred to in subsection (a) from compliance with any other  
25 substantive provision of this chapter.

1       “(2) This section may not be construed—

2               “(A) as prohibiting an employee of an agency  
3       referred to in subsection (a) from seeking informa-  
4       tion from the Secretary regarding assistance in seek-  
5       ing reemployment from the agency under this chap-  
6       ter, alternative employment in the Federal Govern-  
7       ment under this chapter, or information relating to  
8       the rights and obligations of employee and Federal  
9       agencies under this chapter; or

10              “(B) as prohibiting such an agency from volun-  
11       tarily cooperating with or seeking assistance in or of  
12       clarification from the Secretary or the Director of  
13       the Office of Personnel Management of any matter  
14       arising under this chapter.

15       “(e) The Director of the Office of Personnel Manage-  
16       ment shall ensure the offer of employment to a person in  
17       a position in a Federal executive agency on the basis de-  
18       scribed in subsection (b) if—

19              “(1) the person was an employee of an agency  
20       referred to in section 2302(a)(2)(C)(ii) of title 5 at  
21       the time the person entered the service from which  
22       the person seeks reemployment under this section;

23              “(2) the appropriate officer of the agency deter-  
24       mines under section 4315(c) of this title that reem-

1       ployment of the person by the agency is impossible  
2       or unreasonable; and

3               “(3) the person submits an application to the  
4       Director for an offer of employment under this sub-  
5       section.

6       **“§ 4316. Rights, benefits, and obligations of persons**  
7               **absent from employment for service in a**  
8               **uniformed service**

9       “(a) A person who is reemployed under this chapter  
10      after a period of service in the uniformed services is enti-  
11      tled to the seniority and other rights and benefits deter-  
12      mined by seniority that the person had on the date of the  
13      commencement of such service plus the additional senior-  
14      ity and rights and benefits that such person would have  
15      attained if the person had remained continuously em-  
16      ployed.

17      “(b)(1)(A) Subject to paragraphs (2) through (6), a  
18      person who performs service in the uniformed services  
19      shall be—

20               “(i) deemed to be on furlough or leave of ab-  
21      sence while performing such service; and

22               “(ii) entitled to such other rights and benefits  
23      not determined by seniority as are generally provided  
24      by the employer of the person to employees having  
25      similar seniority, status, and pay who are on fur-

1        lough or leave of absence under a practice, policy,  
2        agreement, or plan in effect at the commencement of  
3        such service or established while such person per-  
4        forms such service.

5        “(B) Such person may be required to pay the em-  
6        ployee cost, if any, of any funded benefit continued pursu-  
7        ant to subparagraph (A) to the extent other employees on  
8        furlough or leave of absence are so required. In the case  
9        of a multiemployer plan, as defined in section 3(37) of  
10       the Employee Retirement Income Security Act of 1974  
11       (29 U.S.C. 1002(37)), any liability of the plan arising  
12       under this paragraph shall be allocated by the plan in such  
13       manner as the sponsor maintaining the plan may provide  
14       (or, if the sponsor does not so provide, shall be allocated  
15       to the last employer employing the person before the pe-  
16       riod served by the person in the uniformed services).

17       “(2) A person deemed to be on furlough or leave of  
18       absence under this subsection while serving in the uni-  
19       formed services shall not be entitled under this subsection  
20       to any benefits which the person would not otherwise be  
21       entitled if the person were not on a furlough or leave of  
22       absence.

23       “(3) A person is not entitled under this subsection  
24       to coverage under a health plan to the extent that the per-  
25       son is entitled to care or treatment from the Federal Gov-



1 ernment as a result of such person's service in the uni-  
2 formed services.

3       “(4) A person is not entitled under this subsection  
4 to coverage, under a disability insurance policy, of an in-  
5 jury or disease incurred or aggravated during a period of  
6 active duty service in excess of 31 days to the extent such  
7 coverage is excluded or limited by a provision of such pol-  
8 icy.

9       “(5) A person is not entitled under this subsection  
10 to coverage, under a life insurance policy, of a death in-  
11 curred by the person as a result of the person's participa-  
12 tion in, or assignment to an area of, armed conflict to the  
13 extent that such coverage is excluded or limited by a provi-  
14 sion of such policy.

15       “(6) The requirement that an employer provide rights  
16 or benefits under paragraph (1) to a person deemed to  
17 be on furlough or leave of absence shall expire on the ear-  
18 lier of—

19               “(A) the date of the end of the 18-month period  
20 that begins on the date on which the person com-  
21 mences the performance of the service referred to in  
22 paragraph (1); or

23               “(B) the date of the expiration of the person's  
24 obligation with respect to such service to notify the  
25 person's employer of the person's intent to return to

1 a position of employment under section 4312(e) of  
2 this title.

3 “(7) The entitlement of a person to a right or benefit  
4 under an employee pension benefit plan is provided for  
5 under section 4317 of this title.

6 “(c)(1)(A) Subject to paragraphs (2) and (3), if a  
7 person’s employer-sponsored health-plan coverage would  
8 otherwise terminate due to an extended absence from em-  
9 ployment for purposes of performing service in the uni-  
10 formed services, the person may elect to continue health-  
11 plan coverage acquired through civilian employment in ac-  
12 cordance with this paragraph so that such coverage con-  
13 tinues for not more than 18 months after such absence  
14 begins.

15 “(B) A person who elects to continue health-plan cov-  
16 erage under this paragraph may be required to pay not  
17 more than 102 percent of the full premium (determined  
18 in the same manner as the applicable premium under sec-  
19 tion 4980B(f)(4) of the Internal Revenue Code of 1986  
20 (26 U.S.C. 4980B(f)(4))) associated with such coverage  
21 for the employer’s other employees, except that in the case  
22 of a person who performs a period of service in the uni-  
23 formed services for less than 31 days, such person may  
24 not be required to pay more than the employee share, if  
25 any, for such coverage.

1       “(C) In the case of a multiemployer plan, as defined  
2 in section 3(37) of the Employee Retirement Income Secu-  
3 rity Act of 1974 (29 U.S.C. 1002(37)), any liability of  
4 the plan arising under this paragraph shall be allocated  
5 by the plan in such manner as the sponsor maintaining  
6 the plan may provide (or, if the sponsor does not so pro-  
7 vide, shall be allocated to the last employer employing the  
8 person before the period served by the person in the uni-  
9 formed services).

10       “(2) A person who elects to continue health-plan cov-  
11 erage under this subsection shall not be entitled to cov-  
12 erage under the plan to the extent that the person is enti-  
13 tled to care or treatment from the Federal Government  
14 as a result of such person’s service in the uniformed serv-  
15 ices.

16       “(3) The period of coverage of a person and the per-  
17 son’s dependents under a continuation of health-plan cov-  
18 erage elected by the person under this subsection shall be  
19 the lesser of—

20               “(A) the 18-month period beginning on the date  
21 on which the absence referred to in paragraph (1)  
22 begins; or

23               “(B) the aggregate of the period of the person’s  
24 service in the uniformed services and the period in  
25 which the person is required to notify the person’s

1        employer of the person’s intent to return to a posi-  
2        tion of employment under section 4312(e) of this  
3        title.

4        “(d)(1) Except as provided in paragraph (2), in the  
5        case of a person whose coverage by an employer-sponsored  
6        health plan as an employee is terminated by reason of the  
7        service of such person in the uniformed services, an exclu-  
8        sion or waiting period may not be imposed in connection  
9        with the reinstatement of the coverage of the person upon  
10       reemployment under this chapter, or in connection with  
11       any other individual who is covered by the health plan by  
12       reason of the reinstatement of the coverage of such person  
13       upon reemployment, if an exclusion or waiting period  
14       would not have been imposed under such health plan had  
15       coverage of such person by such health plan not been ter-  
16       minated as a result of such service.

17       “(2) Paragraph (1) shall not apply to the condition  
18       of a person if the Secretary determines that the condition  
19       was incurred or aggravated during active military, naval,  
20       or air service.

21       “(e) A person who is reemployed by an employer  
22       under this chapter shall not be discharged from such em-  
23       ployment, except for cause—

1           “(1) within one year after the date of such re-  
2           employment, if the person’s period of service before  
3           the reemployment was more than 180 days; or

4           “(2) within 180 days after the date of such re-  
5           employment, if the person’s period of service before  
6           the reemployment was more than 30 days but less  
7           than 181 days.

8           “(f)(1) Any person described in paragraph (2) whose  
9           employment with an employer referred to in that para-  
10          graph is interrupted by a period of service in the uni-  
11          formed services shall be permitted, upon request of that  
12          person, to use during such period of service any vacation  
13          or annual leave with pay accrued by the person before the  
14          commencement of such service.

15          “(2) A person entitled to the benefit described in  
16          paragraph (1) is a person who—

17                 “(A) has accrued vacation or annual leave with  
18                 pay under a policy or practice of a State (as an em-  
19                 ployer) or private employer; or

20                 “(B) has accrued such leave as an employee of  
21                 the Federal Government pursuant to subchapter I of  
22                 chapter 63 of title 5.

23         **“§ 4317. Employee pension benefit plans**

24                 “(a)(1)(A) Except as provided in subparagraph (B),  
25          in the case of a right provided pursuant to an employee

1 pension benefit plan described in section 3(2) of the Em-  
2 ployee Retirement Income Security Act of 1974 (29  
3 U.S.C. 1002(2)) or a right provided under any Federal  
4 or State law governing pension benefits for governmental  
5 employees, the right to pension benefits of a person reem-  
6 ployed under this chapter shall be determined under this  
7 section.

8       “(B) In the case of benefits under the Thrift Savings  
9 Plan, the rights of a person reemployed under this chapter  
10 shall be those rights provided in section 8432b of title 5.  
11 This subparagraph shall not be construed to affect any  
12 other right or benefit under this chapter.

13       “(2)(A) Except as provided in section 4312(f)(3)(B)  
14 of this title, a person reemployed under this chapter shall  
15 be treated as not having incurred a break in service with  
16 the employer or employers maintaining the plan by reason  
17 of such person’s period or periods of service in the uni-  
18 formed services.

19       “(B) Each period served by a person in the uniformed  
20 services shall, upon reemployment under this chapter, be  
21 deemed to constitute service with the employer or employ-  
22 ers maintaining the plan for purpose of determining the  
23 nonforfeitability of the person’s accrued benefits and for  
24 the purpose of determining the accrual of benefits under  
25 the plan.

1       “(b)(1) An employer reemploying a person under this  
2 chapter shall be liable to an employee benefit pension plan  
3 for funding any obligation of the plan to provide the bene-  
4 fits described in subsection (a)(2). For purposes of deter-  
5 mining the amount of such liability and for purposes of  
6 section 515 of the Employee Retirement Income Security  
7 Act of 1974 (29 U.S.C. 1145) or any similar Federal or  
8 State law governing pension benefits for governmental em-  
9 ployees, service in the uniformed services that is deemed  
10 under subsection (a) to be service with the employer shall  
11 be deemed to be service with the employer under the terms  
12 of the plan or any applicable collective bargaining agree-  
13 ment. In the case of a multiemployer plan, as defined in  
14 section 3(37) of the Employee Retirement Income Secu-  
15 rity Act of 1974 (29 U.S.C. 1002(37)), any liability of  
16 the plan described in this paragraph shall be allocated by  
17 the plan in such manner as the sponsor maintaining the  
18 plan may provide (or, if the sponsor does not so provide,  
19 shall be allocated to the last employer employing the per-  
20 son before the period described in subsection (a)(2)(B)).

21       “(2) A person reemployed under this chapter shall  
22 be entitled to accrued benefits pursuant to subsection (a)  
23 that are contingent on the making of, or derived from,  
24 employee contributions or elective deferrals only to the ex-  
25 tent the person elects to make employee contributions or

1 elective deferrals that are attributable to the period of  
2 service described in subsection (a)(2)(B). No such con-  
3 tributions or deferrals may exceed the amount the person  
4 or employer would have been permitted or required to  
5 make had the person remained continuously employed by  
6 the employer throughout the period of service described  
7 in subsection (a)(2)(B). Any employee contribution or de-  
8 ferral to the plan described in this paragraph shall be  
9 made during any reasonable continuous period (beginning  
10 with the date of reemployment) as the employer and the  
11 person may agree but in no event shall such person be  
12 afforded a payment period shorter than the length of ab-  
13 sence for service for which the payments are due.

14       “(3) For purposes of computing an employer’s liabil-  
15 ity under paragraph (1) or the employee’s contributions  
16 under paragraph (2), the employee’s compensation during  
17 the period of service described in subsection (a)(2)(B)—

18               “(A) shall be computed at the rate the em-  
19 ployee would have received but for the absence dur-  
20 ing the period of service; or

21               “(B) if the employee’s compensation was not  
22 based on a fixed rate, shall be computed on the basis  
23 of the employee’s average rate of compensation dur-  
24 ing the 12-month period immediately preceding such



1       period (or, if shorter, the period of employment im-  
2       mediately preceding such period).

3       “(4) Notwithstanding any other provision of this sec-  
4       tion—

5               “(A) no earnings shall be credited to an em-  
6       ployee with respect to any contribution prior to such  
7       contribution being made; and

8               “(B) any forfeitures during the period described  
9       in subsection (a)(2)(B) shall not be allocated to per-  
10      sons reemployed under this chapter.

11      “(c) Any employer who reemploys a person under this  
12      chapter and who is an employer contributing to a multiem-  
13      ployer plan, as defined in section 3(37) of the Employee  
14      Retirement Income Security Act of 1974 (29 U.S.C.  
15      1002(37)), under which benefits are or may be payable  
16      to such person by reason of the obligations set forth in  
17      this chapter, shall, within 30 days after the date of such  
18      reemployment, provide notice of such reemployment to the  
19      administrator of such plan.

20      “(d) No provision of this section shall apply to the  
21      extent it—

22               “(1) requires any action to be taken which  
23      would cause the plan, any of its participants, or em-  
24      ployer to suffer adverse tax or other consequences  
25      under the Internal Revenue Code of 1986; or

1           “(2) requires contributions to be returned or re-  
2       allocated, or additional contributions to be made,  
3       with respect to employees not reemployed under this  
4       chapter.

5       “SUBCHAPTER III—PROCEDURES FOR ASSIST-  
6       ANCE, ENFORCEMENT, AND INVESTIGA-  
7       TION

8       **“§ 4321. Assistance in obtaining reemployment or**  
9               **other employment rights or benefits**

10       “(a) The Secretary (through the Veterans’ Employ-  
11      ment and Training Service) shall provide assistance to any  
12      person with respect to the employment and reemployment  
13      rights and benefits to which such person is entitled under  
14      this chapter. In providing such assistance, the Secretary  
15      may request the assistance of existing Federal and State  
16      agencies engaged in similar or related activities and utilize  
17      the assistance of volunteers.

18       “(b)(1)(A) A person referred to in subparagraph (B)  
19      may submit a complaint to the Secretary with respect to  
20      the matters described in clause (ii) of such subparagraph.  
21      Such complaint shall be submitted in accordance with sub-  
22      section (c).

23       “(B) A person may submit a complaint under sub-  
24      paragraph (A) if the person claims—

1           “(i) to be entitled under this chapter to employ-  
2           ment or reemployment rights or benefits with re-  
3           spect to employment by an employer; and

4           “(ii) that the employer (including the Office of  
5           Personnel Management, if the employer is the Fed-  
6           eral Government) has failed or refused, or is about  
7           to fail or refuse, to comply with the provisions of  
8           this chapter.

9           “(2) The Secretary shall, upon request, provide tech-  
10          nical assistance to a potential claimant with respect to a  
11          complaint under this subsection, and to such claimant’s  
12          employer.

13          “(c) A complaint submitted under subsection (b) shall  
14          be in a form prescribed by the Secretary and shall in-  
15          clude—

16                 “(1) the name and address of the employer or  
17                 potential employer against whom the complaint is di-  
18                 rected; and

19                 “(2) a summary of the allegations upon which  
20                 the complaint is based.

21          “(d) The Secretary shall investigate each complaint  
22          submitted pursuant to subsection (b). If the Secretary de-  
23          termines as a result of the investigation that the action  
24          alleged in such complaint occurred, the Secretary shall re-  
25          solve the complaint by making reasonable efforts to ensure

1 that the person or entity named in the complaint complies  
2 with the provisions of this chapter.

3 “(e) If the efforts of the Secretary with respect to  
4 a complaint under subsection (d) are unsuccessful, the  
5 Secretary shall notify the person who submitted the com-  
6 plaint of—

7 “(1) the results of the Secretary’s investigation;  
8 and

9 “(2) the complainant’s entitlement to proceed  
10 under the enforcement of rights provisions provided  
11 under section 4322 of this title (in the case of a per-  
12 son submitting a complaint against a State or pri-  
13 vate employer) or section 4323 of this title (in the  
14 case of a person submitting a complaint against the  
15 Federal Government).

16 “(f) This subchapter does not apply to any action re-  
17 lating to benefits to be provided under the Thrift Savings  
18 Plan under title 5.

19 **“§ 4322. Enforcement of rights with respect to a State**  
20 **or private employer**

21 “(a)(1) A person who receives from the Secretary a  
22 notification pursuant to section 4321(e) of this title of an  
23 unsuccessful effort to resolve a complaint relating to a  
24 State (as an employer) or a private employer may request  
25 that the Secretary refer the complaint to the Attorney

1 General. If the Attorney General is reasonably satisfied  
2 that the person on whose behalf the complaint is referred  
3 is entitled to the rights or benefits sought, the Attorney  
4 General may appear on behalf of, and act as attorney for,  
5 the person on whose behalf the complaint is submitted and  
6 commence an action for appropriate relief for such person  
7 in an appropriate United States district court.

8 “(2)(A) A person referred to in subparagraph (B)  
9 may commence an action for appropriate relief in an ap-  
10 propriate United States district court.

11 “(B) A person entitled to commence an action for re-  
12 lief with respect to a complaint under subparagraph (A)  
13 is a person who—

14 “(i) has chosen not to apply to the Secretary  
15 for assistance regarding the complaint under section  
16 4321(c) of this title;

17 “(ii) has chosen not to request that the Sec-  
18 retary refer the complaint to the Attorney General  
19 under paragraph (1); or

20 “(iii) has been refused representation by the At-  
21 torney General with respect to the complaint under  
22 such paragraph.

23 “(b) In the case of an action against a State as an  
24 employer, the appropriate district court is the court for  
25 any district in which the State exercises any authority or

1 carries out any function. In the case of a private employer  
2 the appropriate district court is the district court for any  
3 district in which the private employer of the person main-  
4 tains a place of business.

5 “(c)(1)(A) The district courts of the United States  
6 shall have jurisdiction, upon the filing of a complaint, mo-  
7 tion, petition, or other appropriate pleading by or on be-  
8 half of the person entitled to a right or benefit under this  
9 chapter—

10 “(i) to require the employer to comply with the  
11 provisions of this chapter;

12 “(ii) to require the State or private employer,  
13 as the case may be, to compensate the person for  
14 any loss of wages or benefits suffered by reason of  
15 such employer’s failure to comply with the provisions  
16 of this chapter; and

17 “(iii) to require the employer to pay the person  
18 an amount equal to the amount referred to in clause  
19 (ii) as liquidated damages, if the court determines  
20 that the employer’s failure to comply with the provi-  
21 sions of this chapter was willful.

22 “(B) Any compensation under clauses (ii) and (iii)  
23 of subparagraph (A) shall be in addition to, and shall not  
24 diminish, any of the other rights and benefits provided for  
25 in this chapter.

1       “(2)(A) No fees or court costs shall be charged or  
2 taxed against any person claiming rights under this chap-  
3 ter.

4       “(B) In any action or proceeding to enforce a provi-  
5 sion of this chapter by a person under subsection (a)(2)  
6 who obtained private counsel for such action or proceed-  
7 ing, the court may award any such person who prevails  
8 in such action or proceeding reasonable attorney fees, ex-  
9 pert witness fees, and other litigation expenses.

10       “(3) The court may use its full equity powers, includ-  
11 ing temporary or permanent injunctions and temporary  
12 restraining orders, to vindicate fully the rights or benefits  
13 of persons under this chapter.

14       “(4) An action under this chapter may be initiated  
15 only by a person claiming rights or benefits under this  
16 chapter, and not by an employer, prospective employer, or  
17 other entity with obligations under this chapter.

18       “(5) In any such action, only a State and local gov-  
19 ernment (as an employer), an employer, or a potential em-  
20 ployer, as the case may be, shall be a necessary party re-  
21 spondent.

22       “(6) No State statute of limitations shall apply to any  
23 proceeding under this chapter.

1 “(7) A State shall be subject to the same remedies,  
2 including prejudgment interest, as may be imposed upon  
3 any private employer under this section.

4 **“§ 4323. Enforcement of rights with respect to Fed-**  
5 **eral executive agencies**

6 “(a)(1) A person who receives from the Secretary a  
7 notification pursuant to section 4321(e) of this title of an  
8 unsuccessful effort to resolve a complaint relating to a  
9 Federal executive agency may request that the Secretary  
10 refer the complaint for litigation before the Merit Systems  
11 Protection Board. The Secretary shall refer the complaint  
12 to the Office of Special Counsel established by section  
13 1211 of title 5.

14 “(2)(A) If the Special Counsel is reasonably satisfied  
15 that the person on whose behalf a complaint is referred  
16 under paragraph (1) is entitled to the rights or benefits  
17 sought, the Special Counsel (upon the request of the per-  
18 son submitting the complaint) may appear on behalf of,  
19 and act as attorney for, the person and initiate an action  
20 regarding such complaint before the Merit Systems Pro-  
21 tection Board.

22 “(B) If the Special Counsel decides not to initiate an  
23 action and represent a person before the Merit Systems  
24 Protection Board under subparagraph (A), the Special  
25 Counsel shall notify such person of that decision.



1       “(b)(1) A person referred to in paragraph (2) may  
2 submit a complaint against a Federal executive agency  
3 under this subchapter directly to the Merit Systems Pro-  
4 tection Board. A person who seeks a hearing or adjudica-  
5 tion by submitting such a complaint under this paragraph  
6 may be represented at such hearing or adjudication in ac-  
7 cordance with the rules of the Board.

8       “(2) A person entitled to submit a complaint to the  
9 Merit Systems Protection Board under paragraph (1) is  
10 a person who—

11           “(A) has chosen not to apply to the Secretary  
12 for assistance regarding a complaint under section  
13 4321(c) of this title;

14           “(B) has received a notification from the Sec-  
15 retary under section 4321(e) of this title;

16           “(C) has chosen not to be represented before  
17 the Board by the Special Counsel pursuant to sub-  
18 section (a)(2)(A); or

19           “(D) has received a notification of a decision  
20 from the Special Counsel under subsection  
21 (a)(2)(B).

22       “(c)(1) The Merit Systems Protection Board shall  
23 adjudicate any complaint brought before the Board pursu-  
24 ant to subsection (a)(2)(A) or (b)(1).

1       “(2) If the Board determines that a Federal executive  
2 agency has not complied with the provisions of this chap-  
3 ter relating to the employment or reemployment of a per-  
4 son by the agency, the Board shall enter an order requir-  
5 ing the agency or employee to comply with such provisions  
6 and to compensate such person for any loss of wages or  
7 benefits suffered by such person by reason of such lack  
8 of compliance.

9       “(3) Any compensation received by a person pursuant  
10 to an order under paragraph (1) shall be in addition to  
11 any other right or benefit provided for by this chapter and  
12 shall not diminish any such right or benefit.

13       “(4) If the Board determines as a result of a hearing  
14 or adjudication conducted pursuant a complaint submitted  
15 by a person directly to the Board pursuant to subsection  
16 (b)(1) that such person is entitled to an order referred  
17 to in paragraph (2), the Board may, in its discretion,  
18 award such person reasonable attorney fees, expert wit-  
19 ness fees, and other litigation expenses.

20       “(d) A person adversely affected or aggrieved by a  
21 final order or decision of the Merit Systems Protection  
22 Board under subsection (c) may petition the United States  
23 Court of Appeals for the Federal Circuit to review the  
24 final order or decision. Such petition and review shall be

1 in accordance with the procedures set forth in section  
2 7703 of title 5.

3 “(e) A person may be represented by the Special  
4 Counsel in an action for review of a final order or decision  
5 issued by the Merit Systems Protection Board pursuant  
6 to subsection (c) that is brought pursuant to section 7703  
7 of title 5 unless the person was not represented by the  
8 Special Counsel before the Merit Systems Protection  
9 Board regarding such order or decision.

10 **“§ 4324. Enforcement of rights with respect to certain**  
11 **Federal agencies**

12 “(a) This section applies to any person who alleges  
13 that—

14 “(1) the reemployment of such person by an  
15 agency referred to in subsection (a) of section 4315  
16 of this title was not in accordance with procedures  
17 for the reemployment of such person under sub-  
18 section (b) of such section; or

19 “(2) the failure of such agency to reemploy the  
20 person under such section was otherwise wrongful.

21 “(b) Any person referred to in subsection (a) may  
22 submit a claim relating to an allegation referred to in that  
23 subsection to the inspector general of the agency which  
24 is the subject of the allegation. The inspector general shall

1 investigate and resolve the allegation pursuant to proce-  
2 dures prescribed by the head of the agency.

3 “(c) In prescribing procedures for the investigation  
4 and resolution of allegations under subsection (b), the  
5 head of an agency shall ensure, to the maximum extent  
6 practicable, that the procedures are similar to the proce-  
7 dures for investigating and resolving complaints utilized  
8 by the Secretary under section 4321(d) of this title.

9 “(d) This section may not be construed—

10 “(1) as prohibiting an employee of an agency  
11 referred to in subsection (a) from seeking informa-  
12 tion from the Secretary regarding assistance in seek-  
13 ing reemployment from the agency under this chap-  
14 ter, alternative employment in the Federal Govern-  
15 ment under this chapter, or information relating to  
16 the rights and obligations of employee and Federal  
17 agencies under this chapter; or

18 “(2) as prohibiting such an agency from volun-  
19 tarily cooperating with or seeking assistance in or of  
20 clarification from the Secretary or the Director of  
21 the Office of Personnel Management of any matter  
22 arising under this chapter.

23 **“§ 4325. Conduct of investigation; subpoenas**

24 “(a) In carrying out any investigation under this  
25 chapter, the Secretary’s duly authorized representatives

1 shall, at all reasonable times, have reasonable access to,  
2 for purposes of examination, and the right to copy and  
3 receive, any documents of any person or employer that the  
4 Secretary considers relevant to the investigation.

5       “(b) In carrying out any investigation under this  
6 chapter, the Secretary may require by subpoena the at-  
7 tendance and testimony of witnesses and the production  
8 of documents relating to any matter under investigation.  
9 In case of disobedience of the subpoena or contumacy and  
10 on request of the Secretary, the Attorney General may  
11 apply to any district court of the United States in whose  
12 jurisdiction such disobedience or contumacy occurs for an  
13 order enforcing the subpoena.

14       “(c) Upon application, the district courts of the Unit-  
15 ed States shall have jurisdiction to issue writs command-  
16 ing any person or employer to comply with the subpoena  
17 of the Secretary or to comply with any order of the Sec-  
18 retary made pursuant to a lawful investigation under this  
19 chapter and district courts shall have jurisdiction to pun-  
20 ish failure to obey a subpoena or other lawful order of  
21 the Secretary as a contempt of court.

22       “(d) Subsections (b) and (c) shall not apply to the  
23 legislative branch or the judicial branch of the United  
24 States.

## 1       “SUBCHAPTER IV—MISCELLANEOUS

2   **“§ 4331. Regulations**

3       “(a) The Secretary (in consultation with the Sec-  
4   retary of Defense) may prescribe regulations implement-  
5   ing the provisions of this chapter with respect to States  
6   and local governments (as employers) and private employ-  
7   ers.

8       “(b)(1) The Director of the Office of Personnel Man-  
9   agement (in consultation with the Secretary and the Sec-  
10   retary of Defense) may prescribe regulations implement-  
11   ing the provisions of this chapter with regard to the appli-  
12   cation of this chapter to Federal executive agencies (other  
13   than the agencies referred to in paragraph (2)) as employ-  
14   ers. Such regulations shall be consistent with the regula-  
15   tions pertaining to the States as employers and private  
16   employers.

17       “(2) The following entities may prescribe regulations  
18   to carry out the activities of such entities under this chap-  
19   ter:

20               “(A) The Merit Systems Protection Board.

21               “(B) The Office of Special Counsel.

22               “(C) The agencies referred to in section  
23   2303(a)(2)(C)(ii) of title 5.

1 **“§ 4332. Outreach**

2 “The Secretary, the Secretary of Defense, and the  
3 Secretary of Veterans Affairs shall take such actions as  
4 such Secretaries determine are appropriate to inform per-  
5 sons entitled to rights and benefits under this chapter and  
6 employers of the rights, benefits, and obligations of such  
7 persons and employers under this chapter.”.

8 (b) TABLE OF CHAPTERS.—The tables of chapters  
9 at the beginning of title 38, United States Code, and the  
10 beginning of part III of such title are each amended by  
11 striking out the item relating to chapter 43 and inserting  
12 in lieu thereof the following:

**“43. Employment and reemployment rights of members of  
the uniformed services ..... 4301”.**

13 (c) REPORT RELATING TO IMPLEMENTATION OF RE-  
14 EMPLOYMENT RIGHTS PROVISIONS.—Not later than one  
15 year after the date of the enactment of this Act, the Sec-  
16 retary of Labor, the Attorney General of the United  
17 States, and the Special Counsel referred to in section  
18 4323(a)(1) of title 38, United States Code (as added by  
19 subsection (a)), shall each submit a report to the Congress  
20 relating to the implementation of chapter 43 of such title  
21 (as added by such subsection).

1 **SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIRE-**  
2 **MENTS.**

3 Section 5303A(b)(3) of title 38, United States Code,  
4 is amended—

5 (1) by striking out “or” at the end of subpara-  
6 graph (E);

7 (2) by striking out the period at the end of sub-  
8 paragraph (F) and inserting in lieu thereof “; or”;  
9 and

10 (3) by adding at the end thereof the following  
11 new subparagraph:

12 “(G) to an entitlement to rights and benefits  
13 under chapter 43 of this title.”.

14 **SEC. 4. REPEAL OF TITLE 5 PROVISIONS RELATING TO RE-**  
15 **EMPLOYMENT RIGHTS OF RESERVISTS.**

16 (a) REPEAL.—Subchapter II of chapter 35 of title  
17 5, United States Code, is repealed.

18 (b) CONFORMING AMENDMENT.—The table of sec-  
19 tions at the beginning of such chapter is amended by strik-  
20 ing out the items relating to subchapter II and section  
21 3551.

22 **SEC. 5. REVISION OF FEDERAL CIVIL SERVICE RETIRE-**  
23 **MENT BENEFIT PROGRAM FOR RESERVISTS.**

24 (a) CREDITABLE MILITARY SERVICE UNDER  
25 CSRS.—Section 8331(13) of title 5, United States Code,  
26 is amended in the flush matter by inserting “or full-time



1 National Guard duty (as such term is defined in section  
2 101(d) of title 10) if such service interrupts creditable ci-  
3 vilian service under this subchapter and is followed by re-  
4 employment in accordance with chapter 43 of title 38 that  
5 occurs on or after August 1, 1990” before the semicolon.

6 (b) PAY DEDUCTIONS FOR MILITARY SERVICE  
7 UNDER CSRS.—Section 8334(j)(1) of such title is amend-  
8 ed—

9 (1) by striking out “Each employee” and insert-  
10 ing in lieu thereof “(A) Except as provided in sub-  
11 paragraph (B), each employee”; and

12 (2) by adding at the end the following:

13 “(B) In any case where military service interrupts  
14 creditable civilian service under this subchapter and reem-  
15 ployment pursuant to chapter 43 of title 38 occurs on or  
16 after August 1, 1990, the deposit payable under this para-  
17 graph may not exceed the amount that would have been  
18 deducted and withheld under subsection (a)(1) from basic  
19 pay during civilian service if the employee had not per-  
20 formed the period of military service.”.

21 (c) CREDITABLE MILITARY SERVICE UNDER  
22 FERS.—Section 8401(31) of such title is amended in the  
23 flush matter by inserting “or full-time National Guard  
24 duty (as such term is defined in section 101(d) of title  
25 10) if such service interrupts creditable civilian service

1 under this subchapter and is followed by reemployment in  
 2 accordance with chapter 43 of title 38 that occurs on or  
 3 after August 1, 1990” before the semicolon.

4 (d) PAY DEDUCTIONS FOR MILITARY SERVICE  
 5 UNDER FERS.—Section 8422(e)(1) of such title is  
 6 amended—

7 (1) by striking out “Each employee” and insert-  
 8 ing in lieu thereof “(A) Except as provided in sub-  
 9 paragraph (B), each employee”; and

10 (2) by adding at the end the following:

11 “(B) In any case where military service interrupts  
 12 creditable civilian service under this subchapter and reem-  
 13 ployment pursuant to chapter 43 of title 38 occurs on or  
 14 after August 1, 1990, the deposit payable under this para-  
 15 graph may not exceed the amount that would have been  
 16 deducted and withheld under subsection (a)(1) from basic  
 17 pay during civilian service if the employee had not per-  
 18 formed the period of military service.”.

19 (e) TECHNICAL AMENDMENTS.—Title 5, United  
 20 States Code, is amended as follows:

21 (1) In section 8401(11), by striking out “1954”  
 22 in the flush matter above clause (i) and inserting in  
 23 lieu thereof “1986”.

24 (2) In section 8422(a)(2)(A)(ii), by striking out  
 25 “1954” and inserting in lieu thereof “1986”.

1           (3) In section 8432(d), by striking out “1954”  
 2           in the first sentence and inserting in lieu thereof  
 3           “1986”.

4           (4) In section 8433(i)(4), by striking out  
 5           “1954” and inserting in lieu thereof “1986”.

6           (5) In section 8440—

7                   (A) by striking out “1954” in subsection  
 8                   (a) and inserting in lieu thereof “1986”; and

9                   (B) by striking out “1954” in subsection  
 10                  (c) and inserting in lieu thereof “1986”.

11 **SEC. 6. THRIFT SAVINGS PLAN.**

12           (a) IN GENERAL.—(1) Title 5, United States Code,  
 13           is amended by inserting after section 8432a the following:

14 **“§ 8432b. Contributions of persons who perform mili-**  
 15 **tary service**

16           “(a) This section applies to any employee who—

17                   “(1) separates or enters leave-without-pay sta-  
 18                   tus in order to perform military service; and

19                   “(2) is subsequently restored to or reemployed  
 20                   in a position which is subject to this chapter, pursu-  
 21                   ant to chapter 43 of title 38.

22           “(b)(1) Each employee to whom this section applies  
 23           may contribute to the Thrift Savings Fund, in accordance  
 24           with this subsection, an amount not to exceed the amount  
 25           described in paragraph (2).

1       “(2) The maximum amount which an employee may  
2 contribute under this subsection is equal to—

3           “(A) the contributions under section 8432(a)  
4 which would have been made, over the period begin-  
5 ning on date of separation or commencement of  
6 leave-without-pay status (as applicable) and ending  
7 on the day before the date of restoration or reem-  
8 ployment (as applicable); reduced by

9           “(B) any contributions under section 8432(a)  
10 actually made by such employee over the period de-  
11 scribed in subparagraph (A).

12       “(3) Contributions under this subsection—

13           “(A) shall be made at the same time and in the  
14 same manner as would any contributions under sec-  
15 tion 8432(a);

16           “(B) shall be made over the period of time  
17 specified by the employee under paragraph (4)(B);  
18 and

19           “(C) shall be in addition to any contributions  
20 then actually being made under section 8432(a).

21       “(4)(A) The Executive Director shall prescribe the  
22 time, form, and manner in which an employee may speci-  
23 fy—

24           “(i) the total amount such employee wishes to  
25 contribute under this subsection with respect to any

1 particular period referred to in paragraph (2)(B);  
2 and

3 “(ii) the period of time over which the employee  
4 wishes to make contributions under this subsection.

5 “(B) The employing agency may place a maximum  
6 limit on the period of time referred to in subparagraph  
7 (A)(ii), which cannot be shorter than two times the period  
8 referred to in paragraph (2)(B) and not longer than four  
9 times such period.

10 “(c) If an employee makes contributions under sub-  
11 section (b), the employing agency shall make contributions  
12 to the Thrift Savings Fund on such employee’s behalf—

13 “(1) in the same manner as would be required  
14 under section 8432(c)(2) if the employee contribu-  
15 tions were being made under section 8432(a); and

16 “(2) disregarding any contributions then actu-  
17 ally being made under section 8432(a) and any  
18 agency contributions relating thereto.

19 “(d) An employee to whom this section applies is enti-  
20 tled to have contributed to the Thrift Savings Fund on  
21 such employee’s behalf an amount equal to—

22 “(1) 1 percent of such employee’s basic pay (as  
23 determined under subsection (e)) for the period re-  
24 ferred to in subsection (b)(2)(B); reduced by

1           “(2) any contributions actually made on such  
2       employee’s behalf under section 8432(c)(1) with re-  
3       spect to the period referred to in subsection  
4       (b)(2)(B).

5       “(e) For purposes of any computation under this sec-  
6       tion, an employee shall, with respect to the period referred  
7       to in subsection (b)(2)(B), be considered to have been paid  
8       at the rate which would have been payable over such pe-  
9       riod had such employee remained continuously employed  
10      in the position which such employee last held before sepa-  
11      rating or entering leave-without-pay status to perform  
12      military service.

13      “(f) Amounts paid under subsection (c) or (d) shall  
14      be paid—

15           “(1) by the agency to which the employee is re-  
16      stored or in which such employee is reemployed;

17           “(2) from the same source as would be the case  
18      under section 8432(e) with respect to sums required  
19      under section 8432(c); and

20           “(3) within the time prescribed by the Execu-  
21      tive Director.

22      “(g)(1) For purposes of section 8432(g), in the case  
23      of an employee to whom this section applies—

24           “(A) a separation from civilian service in order  
25      to perform the military service on which the employ-

1 ee's restoration or reemployment rights are based  
 2 shall be disregarded; and

3 “(B) such employee shall be credited with a pe-  
 4 riod of civilian service equal to the period referred  
 5 to in subsection (b)(2)(B).

6 “(2)(A) An employee to whom this section applies  
 7 may elect, for purposes of section 8433(d), or paragraph  
 8 (1) or (2) of section 8433(h), as the case may be, to have  
 9 such employee's separation (described in subsection  
 10 (a)(1)) treated as if it had never occurred.

11 “(B) An election under this paragraph shall be made  
 12 within such period of time after restoration or reemploy-  
 13 ment (as the case may be) and otherwise in such manner  
 14 as the Executive Director prescribes.

15 “(h) The Executive Director shall prescribe regula-  
 16 tions to carry out this section.”.

17 (2) The table of sections at the beginning of chapter  
 18 84 of title 5, United States Code, is amended by inserting  
 19 after the item relating to section 8432a the following:

“8432b. Contributions of persons who perform military service.”.

20 (b) PRESERVATION OF CERTAIN RIGHTS.—(1) Sec-  
 21 tion 8433(d) of title 5, United States Code, is amended  
 22 by striking “subsection (e).” and inserting “subsection (e),  
 23 unless an election under section 8432b(g)(2) is made to  
 24 treat such separation for purposes of this subsection as  
 25 if it had never occurred.”.

1       (2) Paragraphs (1) and (2) of section 8433(h) are  
2 each amended by striking the period at the end and insert-  
3 ing “, or unless an election under section 8432b(g)(2) is  
4 made to treat such separation for purposes of this para-  
5 graph as if it had never occurred.”.

6       (c) ELECTION TO RESUME REGULAR CONTRIBU-  
7 TIONS UPON RESTORATION OR REEMPLOYMENT.—Sec-  
8 tion 8432 of title 5, United States Code, is amended by  
9 adding at the end the following:

10       “(i)(1) This subsection applies to any employee—

11               “(A) to whom section 8432b applies; and

12               “(B) who, during the period of such employee’s  
13 absence from civilian service (as referred to in sec-  
14 tion 8432b(b)(2)(B))—

15                       “(i) is eligible to make an election de-  
16 scribed in subsection (b)(1); or

17                       “(ii) would be so eligible but for having ei-  
18 ther elected to terminate individual contribu-  
19 tions to the Thrift Savings Fund within 2  
20 months before commencing military service or  
21 separated in order to perform military service.

22       “(2) The Executive Director shall prescribe regula-  
23 tions to ensure that any employee to whom this subsection  
24 applies shall, within a reasonable time after being restored  
25 or reemployed (in the manner described in section



1 8432b(a)(2)), be afforded the opportunity to make, for  
 2 purposes of this section, any election which would be al-  
 3 lowable during a period described in subsection  
 4 (b)(1)(A).”.

5 (d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—  
 6 Section 8351(b) of title 5, United States Code, is amended  
 7 by adding at the end the following:

8 “(11) In applying section 8432b to an employee con-  
 9 tributing to the Thrift Savings Fund after being restored  
 10 to or reemployed in a position subject to this subchapter,  
 11 pursuant to chapter 43 of title 38—

12 “(A) any reference in such section to contribu-  
 13 tions under section 8432(a) shall be considered a  
 14 reference to employee contributions under this sec-  
 15 tion;

16 “(B) the contribution rate under section  
 17 8432b(b)(2)(A) shall be the maximum percentage al-  
 18 lowable under subsection (b)(2) of this section; and

19 “(C) subsections (c) and (d) of section 8432b  
 20 shall be disregarded.”.

21 (e) EFFECTIVE DATE; APPLICABILITY.—This section  
 22 and the amendments made by this section—

23 (1) shall take effect on the date of enactment  
 24 of this Act; and

1           (2) shall apply to any employee whose release  
2           from military service, discharge from hospitalization,  
3           or other similar event making the individual eligible  
4           to seek restoration or reemployment under chapter  
5           43 of title 38, United States Code (as added by sec-  
6           tion 2(a)), occurs on or after August 1, 1990.

7           (f) RULES FOR APPLYING AMENDMENTS TO EM-  
8           PLOYEES RESTORED OR REEMPLOYED BEFORE EFFEC-  
9           TIVE DATE.—In the case of any employee (described in  
10          subsection (e)(2)) who is restored or reemployed in a posi-  
11          tion of employment (in the circumstances described in sec-  
12          tion 8432b(a) of title 5, United States Code, as amended  
13          by this section) before the date of enactment of this Act,  
14          the amendments made by this section shall apply to such  
15          employee, in accordance with their terms, subject to the  
16          following:

17               (1) The employee shall be deemed not to have  
18               been reemployed or restored until—

19                       (A) the date of enactment of this Act, or

20                       (B) the first day following such employee's  
21               reemployment or restoration on which such em-  
22               ployee is or was eligible to make an election re-  
23               lating to contributions to the Thrift Savings  
24               Fund,

25               whichever occurs or occurred first.

1           (2) If the employee changed agencies during the  
2           period between date of actual reemployment or res-  
3           toration and the date of enactment of this Act, the  
4           employing agency as of such date of enactment shall  
5           be considered the reemploying or restoring agency.

6           (3)(A) For purposes of any computation under  
7           section 8432b of such title, pay shall be determined  
8           in accordance with subsection (e) of such section, ex-  
9           cept that, with respect to the period described in  
10          subparagraph (B), actual pay attributable to such  
11          period shall be used.

12          (B) The period described in this subparagraph  
13          is the period beginning on the first day of the first  
14          applicable pay period beginning on or after the date  
15          of the employee's actual reemployment or restoration  
16          and ending on the day before the date determined  
17          under paragraph (1).

18   **SEC. 7. CONFORMING AMENDMENTS.**

19          (a) TITLE 5.—Section 1204(a)(1) of title 5, United  
20          States Code, is amended by striking out “section 4323”  
21          and inserting in lieu thereof “chapter 43”.

22          (b) TITLE 10.—Section 706(c)(1) of title 10, United  
23          States Code, is amended by striking out “section 4321”  
24          and inserting in lieu thereof “chapter 43”.

1 **SEC. 8. TECHNICAL AMENDMENT.**

2 (a) TECHNICAL AMENDMENT.—Section 9(d) of Pub-  
3 lic Law 102–16 (105 Stat. 55) is amended by striking out  
4 “Act” the first place it appears and inserting in lieu there-  
5 of “section”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 subsection (a) shall take effect as if included in Public  
8 Law 102–16 to which such amendment relates.

9 **SEC. 9. TRANSITION RULES AND EFFECTIVE DATES.**

10 (a) REEMPLOYMENT.—(1) Except as otherwise pro-  
11 vided in this Act, the amendments made by this Act shall  
12 be effective with respect to reemployments initiated on or  
13 after the first day after the 60-day period beginning on  
14 the date of enactment of this Act.

15 (2) The provisions of chapter 43 of title 38, United  
16 States Code, in effect on the day before such date of enact-  
17 ment, shall continue to apply to reemployments initiated  
18 before the end of such 60-day period.

19 (3) In determining the number of years of service  
20 that may not be exceeded in an employee-employer rela-  
21 tionship with respect to which a person seeks reemploy-  
22 ment under chapter 43 of title 38, United States Code,  
23 as in effect before or after the date of enactment of this  
24 Act, there shall be included all years of service without  
25 regard to whether the periods of service occurred before  
26 or after such date of enactment unless the period of serv-

1 ice is exempted by the chapter 43 that is applicable, as  
2 provided in paragraphs (1) and (2), to the reemployment  
3 concerned.

4 (4) A person who initiates reemployment under chap-  
5 ter 43 of title 38, United States Code, during or after the  
6 60-day period beginning on the date of enactment of this  
7 Act and whose reemployment is made in connection with  
8 a period of service in the uniform services that was initi-  
9 ated before the end of such period shall be deemed to have  
10 satisfied the notification requirement of section  
11 4312(a)(1) of title 38, United States Code, as provided  
12 in the amendments made by this Act, if the person com-  
13 plied with any applicable notice requirement under chapter  
14 43, United States Code, as in effect on the day before  
15 the date of enactment of this Act.

16 (b) DISCRIMINATION.—The provisions of section  
17 4311 of title 38, United States Code, as provided in the  
18 amendments made by this Act, and the provisions of sub-  
19 chapter III of chapter 43 of such title, as provided in the  
20 amendments made by this Act, that are necessary for the  
21 implementation of such section 4311 shall become effec-  
22 tive on the date of enactment of this Act.

23 (c) INSURANCE.—(1) Except as provided in para-  
24 graph (2), the provisions of section 4316(c) of title 38,  
25 United States Code, as provided in the amendments made

1 by this Act, concerning insurance coverage shall become  
2 effective on the date of enactment of this Act.

3 (2) A person on active duty on the date of enactment  
4 of this Act, or a family member or personal representative  
5 of such person, may, after the date of enactment of this  
6 Act, elect to reinstate or continue insurance coverage as  
7 provided in such section 4316. If such an election is made,  
8 insurance coverage shall remain in effect for the remaining  
9 portion of the 18-month period that began on the date  
10 of such person's separation from civilian employment or  
11 the period of the person's service in the uniformed service,  
12 whichever is the period of lesser duration.

13 (d) DISABILITY.—(1) Section 4313(a)(3) of chapter  
14 43 of title 38, United States Code, as provided in the  
15 amendments made by this Act, shall apply to  
16 reemployments initiated on or after August 1, 1990.

17 (2) Effective as of August 1, 1990, section 4307 of  
18 title 38, United States Code (as in effect on the date of  
19 enactment of this Act), is repealed, and the table of sec-  
20 tions at the beginning of chapter 43 of such title (as in  
21 effect on the date of enactment of this Act) is amended  
22 by striking out the item relating to section 4307.

23 (e) INVESTIGATIONS AND SUBPOENAS.—The provi-  
24 sions of section 4325 of title 38, United States Code, as  
25 provided in the amendments made by this Act, shall be-

1 come effective on the date of the enactment of this Act  
2 and apply to any matter pending with the Secretary of  
3 Labor under section 4305 of title 38, United States Code,  
4 as of that date.

5 (f) PREVIOUS ACTIONS.—Except as otherwise pro-  
6 vided, the amendments made by this Act do not affect  
7 reemployments that were initiated, rights, benefits, and  
8 duties that matured, penalties that were incurred, and  
9 proceedings that begin before the end of the 60-day period  
10 referred to in subsection (a).

11 (g) DEFINITION.—For the purposes of this section,  
12 the term “service in the uniformed services” shall have  
13 the meaning given such term in section 4303(13) of title  
14 38, United States Code, as provided in the amendments  
15 made by this Act.

16 **SEC. 10. INCREASE IN AMOUNT OF LOAN GUARANTY FOR**  
17 **LOANS FOR THE PURCHASE OR CONSTRUC-**  
18 **TION OF HOMES.**

19 Subparagraphs (A)(i)(IV) and (B) of section  
20 3703(a)(1) of title 38, United States Code, are each

- 1 amended by striking out “\$46,000” and inserting in lieu
- 2 thereof “\$50,750”.

Passed the Senate November 2, 1993.

Attest:

*Secretary.*



S 843 ES——2

S 843 ES——3

S 843 ES——4

S 843 ES——5

S 843 ES——6

S 843 ES——7

S 843 ES——8

S 843 ES——9

S 843 ES——10